

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

CHRISTOPHER SAUNDERS, et. al.,

Plaintiffs,

v.

FIRST PRIORITY MORTGAGE, INC.,

Defendant.

DECISION AND ORDER
06-CV-586S

1. On August 14, 2007, Plaintiffs filed an Amended Class Action Complaint. (Docket No. 22). Plaintiffs have not yet moved for class certification under Rule 23 of the Federal Rules of Civil Procedure.

2. On October 26, 2007, Defendant filed a Motion for Summary Judgment seeking to dismiss Plaintiffs' Amended Class Action Complaint. (Docket No. 26).

3. The Court may in its discretion decide a motion for summary judgment before class certification "to protect both the parties and the court from needless and costly further litigation." Christensen v. Kiewit-Murdock Inv. Corp., 815 F.2d 206, 214 (2d Cir. 1987) (quoting Wright v. Schock, 742 F.2d 541, 544 (9th Cir. 1984)); Schweizer v. Trans Union Corp., 136 F.3d 233, 239 (2d Cir. 1998) (holding that "[t]he decision to award summary judgment before acting on class certification was well within the discretion of the district court").

IT HEREBY IS ORDERED that on or before November 30, 2007, Defendant shall file a memorandum explaining why it is proper in this case for the Court to rule on summary judgment prior to class certification. Plaintiffs shall file a responding memorandum on or

before December 21, 2007. Defendant shall file any reply memoranda on or before January 4, 2008.

FURTHER, that Defendant's Motion for Summary Judgment (Docket No. 26) is STAYED until the Court determines whether it will rule on summary judgment before class certification.

FURTHER, that Plaintiffs' response to Defendant's Motion for Summary Judgment will be due no later than 30 days after the Court issues a decision on whether to proceed with Defendant's Motion for Summary Judgment before class certification.

SO ORDERED.

Dated: November 8, 2007
Buffalo, New York

/s/William M. Skretny
WILLIAM M. SKRETNY
United States District Judge